

of the Senate on Tuesday, July 13, 2021, at 9:30 a.m., to conduct a hearing on nominations.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 10 a.m., to conduct a hearing on a nomination.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 9:45 a.m., to conduct a hearing on nominations.

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 10 a.m., to conduct a hearing on nominations.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 10 a.m., to conduct a hearing on a nomination.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

The Committee on Small Business and Entrepreneurship is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 11:30 a.m., to conduct a hearing on a nomination.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 2:30 p.m., to conduct a closed briefing.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

The Subcommittee on Antitrust, Competition Policy and Consumer Rights of the Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, July 13, 2021, at 2:30 p.m., to conduct a hearing.

PRIVILEGES OF THE FLOOR

Mr. CASSIDY. Mr. President, I ask unanimous consent that Savannah Tanguis, an intern in my office, be granted floor privileges today, July 13, 2021.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, this series of "Scheme" speeches is designed to chronicle a long-running, covert scheme to capture the Supreme Court. Regulatory Agencies have often and notoriously been captured by regulated interests. There is a whole doctrine of regulatory capture found in economics and administrative law that revolves around this history of the regulatory capture of administrative

Agencies. So, if you can capture administrative Agencies to serve special interests, why not capture a court?

The trajectory of these "Scheme" speeches has been through time, beginning with the Lewis Powell strategy report to the U.S. Chamber of Commerce and then his enabling of that strategy as a Justice of the Supreme Court and then how the rightwing fringe was brought into organized alignment by the Koch brothers and then, of course, the link to this regulatory capture apparatus and its willing band of mercenary lawyers and witnesses.

Tonight, I interrupt that time trajectory to discuss two decisions just delivered by the Supreme Court, decisions that clearly reflect the patterns and purposes of the Court capture effort.

Let me start by saying that the single most important goal of this covert scheme is to protect itself. The apparatus behind the scheme may be put to innumerable political uses, but none of those political uses will be effectuated unless the underlying apparatus protects itself and stays operational. Survival of this operation is job one, and a core strategy for protecting its covert operations is camouflage.

To camouflage this scheme you need anonymity for the donors behind the operation. The scheme is blown if there is transparency. The clandestine connections among front groups become apparent, and the manipulating hands of the string pullers behind the surreptitious scheme become visible. Voters then see the scheme, understand the players and the motives, get the joke, so to speak, and the operation is blown. So anonymity—donor anonymity—is essential. Voters may hate big, anonymous donors, but big, anonymous donors need anonymity.

The term for this anonymous funding, now pouring by the billions of dollars into our politics, is "dark money." This is a dark money operation, and if you are out to capture a court, you will want to make sure that court will protect your dark money—the camouflage for all of your covert operations. That is job one, which brings us to the Americans for Prosperity Foundation case.

The Americans for Prosperity Foundation is a central front group of the Koch brothers' political influence operation. It sued to prevent California from getting access to donor information of the so-called nonprofits, like itself, that, since Citizens United, have provided screening, anonymity for the megadonors behind their political efforts. For these political groups, donor anonymity is vital for the scheme to function.

Now, one of the ways the dark money operation signals its desires to the Court is through little flotillas of dark money groups that show up as what are called friends of the Court—"amicus curiae," to use the legal term—to provide guidance to the Justices. Little flotillas of dark money groups showed

up in Cedar Point, in *Seila Law v. CFPB*, in *Rucho v. Common Cause*, in *Knick v. Township of Scott*, in *Lamps Plus, Inc. v. Epic Systems*, in *Janus v. AFSCME*, in *Husted v. Randolph Institute*, and in a host of other cases. In each case, the little signaling flotilla showed up. In each case, the Court delivered a partisan win for the little flotilla. They usually number a dozen or so, and it is happening in plain view, except that what is not in plain view is who is funding the little orchestrated flotillas. That, the Court helps to keep secret.

So these signaling flotillas that appear in these cases and generate these partisan victories usually number about a dozen but not in the Americans for Prosperity Foundation case, not in this case. In this case, 50 of them showed up—50. I think that is a record, kind of a personal best for the dark money armada, and they showed up early on, at the certiorari stage, at the stage when the Court decides whether or not to take the case—50 dark money groups showing up at the certiorari stage.

This was a blaring red alert to the Republicans on the Supreme Court as to how important this case was to the dark money operation. Sure enough, just like in all of the other cases I mentioned, the Court delivered. The Republican Justices on the Supreme Court just established a new constitutional right to donor secrecy, and they did so for a group, the Americans for Prosperity Foundation, that is flagrantly involved in rightwing political mischief and manipulation—flagrantly involved.

The Americans for Prosperity Foundation group's operating entity had actually even spent millions of dollars just last year to help get Justice Barrett confirmed. They are so brazen about this that they actually used the Americans for Prosperity Foundation as the named party, not some benign, nonpolitical entity that they could have dredged up. No, they took the bet that this precedent of a politically active manipulator being the named party would not faze the Republicans on the Court, and they would be able, with that partisan majority, to gain a legal foothold for their dark money political spending.

There are few things that enrage the American public more than crooked, dark money political spending. If you tried to get a dark money political spending bill through the Senate, you couldn't do it. If you tried to get it through the House, you couldn't do it. If you put the Senate and House under Republican control, you still couldn't do it, but if you have captured the Supreme Court and have sent 50 dark money groups in a big signaling armada and have told them what you want, then a decision that is as unpopular and enraging as this decision comes your way, and they pulled it off in plain daylight.

Justice Barrett even declined to recuse herself—that is how brazen this